

7 FAM 1120

ACQUISITION OF U.S. NATIONALITY IN U.S. TERRITORIES AND POSSESSIONS

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7 FAM 1121 HISTORICAL BACKGROUND

7 FAM 1121.1 How Territories and Possessions Were Acquired

(TL:CON-66; 10-10-96)

- a. In the late 19th and early 20th centuries, U.S. sovereignty was extended to overseas territories. These territories (unlike those of the western United States, Alaska, and Hawaii) were not considered a part of the United States, and the Constitution was held not to be fully applicable to them.
- b. The territories came under U.S. control in a number of ways:
 - (1) Puerto Rico, Guam, and the Philippines. After the Spanish-American War, Spain ceded Puerto Rico, Guam, and the Philippines to the United States by the Treaty of Paris of 1899 (30 Stat. 1754)("Treaty of Paris"). The treaty came into force in April 11, 1899. The Philippines ceased being a U.S. territory upon its independence on July 4, 1946;
 - (2) American Samoa. In a Tripartite Convention (31 Stat. 1878) ratified on February 16, 1900, Great Britain and Germany ceded American Samoa to the United States;
 - (3) Panama Canal Zone. The Republic of Panama, by a Convention that became effective on February 26, 1904, granted the United States sovereignty over an area of about five miles on either side of a canal that was to be built across the Isthmus of Panama to connect the Atlantic and Pacific Oceans. U.S. sovereignty over the Panama Canal Zone ended on October 1, 1979 in accordance with the Panama Canal Treaty (TIAS 10030);
 - (4) Virgin Islands of the United States. The Virgin Islands of the United States, formerly the Danish West Indies, were purchased from Denmark pursuant to a Convention ratified on January 17, 1917;
 - (5) Swains Island. On March 4, 1925, by joint resolution, Congress proclaimed American sovereignty over Swains Island, which had been the private

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possession of an American family for about 50 years, and made it part of American Samoa; and

- (6) Northern Mariana Islands. These islands, which were part of a U.N. Trusteeship Territory since 1947, became a territory of the United States on November 3, 1986, when The Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Public Law 94-241. 90 Stat. 263)("Covenant") of March 24, 1976, entered fully into force. All the islands formerly under the Trusteeship, which was known as the Trust Territory of the Pacific Islands (TTPI), have assumed new political status and the TTPI no longer exists. See 7 FAM 1126 and 7 FAM 1127.

- c. Treaties, conventions, and proclamations concerning these areas provided for the nationality or citizenship of certain of the inhabitants, but none of the provisions was very specific. Questions arose almost immediately about the status and rights of the inhabitants and the relationship of the newly acquired territories to the United States.

7 FAM 1121.2 Applicability of the Constitution and Early Court Cases

7 FAM 1121.2-1 Definition of Terms

(CT:CON-315 09-03-2009)

Territory: an area over which the United States exercises sovereignty. The term is so used in Article IV, Section 3 of the United States Constitution, which provides that Congress shall have the "power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States".

Incorporated Territory: the territories to which the Constitution is fully applicable are called "incorporated territories". It has been held that persons born in these territories on or after the date they became part of the United States could claim U.S. citizenship under the 14th Amendment. Section 1891, Rev. Stat., stated that:

- The Constitution...shall have the same force and effect within all organized Territories and in every Territory hereafter organized as elsewhere in the United States

Unincorporated Territory or Outlying Possession: An "unincorporated territory" or "outlying possession" is an area over which the Constitution has not been expressly and fully extended by the Congress within the meaning of Article IV, Section 3 of the United States Constitution.

Commonwealth: The term "Commonwealth" does not describe or provide for any specific political status or relationship. It has, for example, been applied to

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both states and territories. When used in connection with areas under U.S. sovereignty that are not states, the term broadly describes an area that is self-governing under a constitution of its adoption and whose right of self-government will not be unilaterally withdrawn by Congress.

7 FAM 1121.2-2 Court Decisions

(TL:CON-66; 10-10-96)

- a. In the first decade of the 20th century, in a series of court cases often called the "Insular Cases", the Supreme Court developed the rationale that, absent specific Congressional legislation or treaty provisions—
 - (1) The Constitution has only limited applicability to U.S. territories; and
 - (2) Inhabitants of territories acquired by the United States acquire U.S. nationality-but not U.S. citizenship.
- b. The Court ruled that:
 - (1) Alaska and Hawaii were incorporated territories (*Rasmussen v. U.S.*, 197 U.S. 516 (1905); *Hawaii v. Mankichi*, 190 U.S. 197 (1903); but
 - (2) Puerto Rico and the Philippines, although they had become U.S. territory, were not part of the United States because Congress had not yet enacted laws incorporating them into the United States or making the Constitution fully applicable to them (*Downes v. Bidwell*, 182 U.S. 244 (1901); *Dorr v. U.S.*, 195 U.S. 138 (1904)).
- c. In *Downes*, the Court stated that:
 - The liberality of Congress in legislating the Constitution into all our contiguous territory has undoubtedly fostered the impression that it went there by its own force, but there is nothing in the Constitution itself, and little in the interpretation put upon it, to confirm that impression
- d. In *Gonzales v. Williams*, 192 U.S. 1 (1904), the Supreme Court referred to its earlier finding that:
 - The nationality of the inhabitants of territory acquired by conquest or cession becomes that of the government under whose dominion they pass, subject to the right of election on their part to retain their former nationality by removal or otherwise, as may be provided." (*Boyd v. Nebraska ex rel Thayer*, 143 U.S. 135 (1892))
 - The Court held that citizens of Puerto Rico were not aliens even though they had not been granted full U.S. citizenship by act of Congress

7 FAM 1121.3 Status of Inhabitants of Territories, Absent Laws Defining Status

(TL:CON-66; 10-10-96)

- a. Eventually, Congress enacted laws defining the relationship of the unincorporated overseas territories to the United States and the citizenship and nationality status of their inhabitants. see 7 FAM 1122 to 1127.
- b. Before the Nationality Act of 1940 and absent laws specifying how U.S. citizenship could be acquired by persons born in a particular territory, children born in a U.S. possession could acquire U.S. citizenship under the laws governing birth abroad if the citizen parent was qualified to transmit U.S. citizenship.
- c. A child born in an outlying possession before January 13, 1941, whose father (or mother if the child was born out of wedlock) was a non-citizen U.S. national, was held to have acquired the parent's status, and a child born there to alien parents was held not to have acquired U.S. nationality.

7 FAM 1121.4 Laws Governing Status of Persons Born in Outlying Possessions

(TL:CON-66; 10-10-96)

Persons born in the outlying possessions may have a claim to U.S. citizenship or U.S. nationality. If an applicant has a potential claim to U.S. citizenship, that claim must be properly adjudicated and a determination of non-citizenship made before the applicant may be documented as a non-citizen national. Some statutes and treaties, such as Section 302 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands, have specified means by which persons who automatically acquired U.S. citizenship could instead opt to be non-citizen nationals. In the absence of such a provision, a person who has acquired U.S. citizenship may not choose to be a non-citizen national rather than a citizen.

7 FAM 1121.4-1 Under the Nationality Act of 1940 (NA)

(TL:CON-66; 10-10-96)

- a. Under the NA (effective January 13, 1941 to December 24, 1952):
 - (1) Puerto Rico and the U.S. Virgin Islands came within the definition of "United States" for nationality purposes, but they were not made incorporated territories; and
 - (2) Other territories under U.S. jurisdiction at that time, except the Canal Zone, were held to be outlying possessions of the United States.
- b. Section 201(e) NA stated how U.S. citizenship could be acquired by birth in outlying possessions.

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- SEC 201. The following shall be nationals and citizens of the United States at birth: (e) A person born in an outlying possession of the United States of parents one of whom is a citizen of the United States who resided in the United States or one of the outlying possessions prior to the birth of such person
- c. Sections 204(a) and (c) NA stated how non-citizen U.S. nationality could be acquired by birth in an outlying possession:
 - SEC 204. Unless otherwise provided in Section 201, the following shall be nationals, but not citizens, of the United States at birth
 - A person born in an outlying possession of the United States of parents one of whom is a national, but not a citizen, of the United States
 - A child of unknown parentage found in an outlying possession of the United States, until shown not to have been born in such outlying possession
- d. Section 205 NA made Sections 201(e) and 204(a) applicable to children born out of wedlock under certain conditions.
 - SEC 205. The provisions of Section 201, subsections (c), (d), (e), and (g), and Section 204, subsections (a) and (b), hereof apply, as of the date of birth, to a child born out of wedlock, provided the paternity is established during minority, by legitimation, or adjudication of a competent court
 - In the absence of such legitimation or adjudication, the child, whether born before or after the effective date of this Act, if the mother had the nationality of the United States at the time of the child's birth, and had previously resided in the United States or one of its outlying possessions, shall be held to have acquired at birth her nationality status

7 FAM 1121.4-2 Under the Immigration and Nationality Act of 1952 (INA)

(TL:CON-66; 10-10-96)

- a. Under the INA (effective December 24, 1952 to present), the definition of:
 - (1) "United States," for nationality purposes, was expanded to add Guam; and, effective November 3, 1986, the Commonwealth of the Northern Mariana Islands (in addition to Puerto Rico and the Virgin Islands of the United States). Persons born in these territories on or after December 24, 1952 acquire U.S. citizenship at birth on the same terms as persons born in other parts of the United States; and
 - (2) "Outlying possessions of the United States" was restricted to American Samoa and Swains Island.
- b. Section 301(e) INA (formerly 301(a)(5)) stated how U.S. citizenship could be acquired by birth in outlying possessions.

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- SEC 301. The following shall be nationals and citizens of the United States at birth: (e) a person born in an outlying possession of the United States of parents, one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year at any time prior to the birth of such person
- c. Section 309 INA made Section 301(e) applicable to children born out of wedlock under certain conditions, see 7 FAM 1133.
- d. Sections 308(1) and (3) INA provide for acquisition of non-citizen U.S. nationality by birth in an outlying possession.
 - SEC 308. Unless otherwise provided in Section 301 of this title, the following shall be nationals, but not citizens of the United States at birth
 - (1) A person born in an outlying possession of the United States on or after the date of formal acquisition of such possession
 - (3) A person of unknown parentage found in an outlying possession of the United States while under the age of 5 years, until shown, prior to his attaining the age of 21 years, not to have been born in such outlying possession

7 FAM 1121.4-3 Status of Inhabitants of Territories Not Mentioned in the Immigration and Nationality Act(INA)

(TL:CON-66; 10-10-96)

The United States exercises sovereignty over a few territories besides those mentioned above. Under international law and Supreme Court dicta, inhabitants of those territories, (Midway, Wake, Johnston, and other islands) would be considered non-citizen, U.S. nationals; However, because the INA defines "outlying possessions of the United States" as only American Samoa and Swains Island, there is no current law relating to the nationality of the inhabitants of those territories or persons born there who have not acquired U.S. nationality by other means.

7 FAM 1122 PUERTO RICO

7 FAM 1122.1 Current Law

(TL:CON-66; 10-10-96)

- a. Puerto Rico comes within the definition of "United States" given in Section 101(a)(38) INA. A person born in Puerto Rico acquires U.S. citizenship in the same way as one born in any of the 50 States. Section 301(a) INA (8 U.S.C. 1401(a)) provides:

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- SEC 301. The following shall be nationals and citizens of the United States at birth
 - a person born in the United States, and subject to the jurisdiction thereof
- b. Section 302, INA (8 U.S.C. 1402) applies specifically to persons born in Puerto Rico on or after April 11, 1899:
 - SEC 302. All persons born in Puerto Rico on or after April 11, 1899, and prior to January 13, 1941, subject to the jurisdiction of the United States, residing on January 13, 1941, in Puerto Rico or other territory over which the United States exercises rights of sovereignty and not citizens of the United States under any other Act, are hereby declared to be citizens of the United States as of January 13, 1941. All persons born in Puerto Rico on or after January 13, 1941, and subject to the jurisdiction of the United States, are citizens of the United States at birth

7 FAM 1122.2 Status Before December 24, 1952

7 FAM 1122.2-1 Status of Inhabitants of Puerto Rico After April 11, 1899, Before March 2, 1917

(TL:CON-66; 10-10-96)

- a. Treaty of Paris of 1899
 - (1) Sovereignty over Puerto Rico was ceded by Spain to the United States by the Treaty of Paris of 1899 (30 Stat. 1754), following the Spanish-American War.
 - (2) Referring to the Iberian Peninsula, Article IX of the treaty, states, in part, that Spanish subjects, natives of the Peninsula, residing in the territory over which Spain by the present treaty relinquishes or cedes her sovereignty, may remain in such territory or may remove there from. In case they remain in the territory, they may preserve their allegiance to the Crown of Spain by making, before a court of record, within one year from the date of exchange of ratifications of this treaty (April 11, 1899), a declaration of their decision to preserve such allegiance, in default of which declaration they shall be held to have adopted the nationality of the territory in which they may reside. The civil rights and political status of the native inhabitants of the territory hereby ceded to the United States shall be determined by the Congress.
 - (3) The Governments of Spain and the United States agreed that:
 - (a) Only the Spanish subjects who had been born in the Spanish Peninsula could opt not to acquire U.S. nationality (not citizenship);
 - (b) Spanish subjects born in Puerto Rico had no such right. If they were residents of Puerto Rico, they became U.S. nationals automatically;

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and

(c) A Spanish-born male could elect Spanish nationality on behalf of his Spanish-born wife and children but not on behalf of a wife or child born in Puerto Rico.

- (4) The Department has a list of the Spaniards in Puerto Rico who made Article IX declarations to retain Spanish nationality. Questions about whether a particular person made a declaration should be referred by telegram to the Department (CA/OCS).
- (5) The status of persons who were not Spanish-subject inhabitants of Puerto Rico on April 11, 1899, was not affected by the treaty.

b. Act of April 12, 1900:

- (1) After the year during which a declaration could be made to preserve Spanish nationality, Congress quickly took steps to define the status of the inhabitants of Puerto Rico. Section 7 of the Act of April 12, 1900 (31 Stat. 77) stated:
- That all inhabitants continuing to reside therein who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in Puerto Rico, and their children born subsequent thereto, shall be deemed and held to be citizens of Puerto Rico, and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain on or before the eleventh day of April, nineteen hundred, in accordance with the provisions of the treaty
 - Thus, a Spanish subject who resided in Puerto Rico on April 11, 1899, and continued to reside there until April 12, 1900, acquired Puerto Rican citizenship and non-citizen U.S. nationality, unless that person was born in the Spanish peninsula and had declared an intention to keep Spanish nationality
- (2) In 1902, in determining that "American artist" as used in the U.S. Customs regulations applied to a native of Puerto Rico who was a Spanish subject on April 11, 1899, but who on that day and on April 12, 1900, was residing temporarily in France pursuing the profession of artist, the Attorney General indicated that a person need not be physically present in Puerto Rico to benefit from the treaty and the Act of April 12, 1900. However, a Spanish citizen in Puerto Rico who was not residing there permanently would not have acquired U.S. nationality or Puerto Rican citizenship (24 Op Atty. Gen. 40). It was held that residence was a legal matter to be determined by the facts in each case; and
- (3) Generally, "residence" was taken to mean a permanent dwelling place, or domicile, to which a person, when absent, intended to return. In determining whether a person's residence in Puerto Rico could continue during a stay abroad, the Department examined the nature of the absence

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(prolonged and permanent or temporary due to employment, schooling, and so forth), evidence of permanent ties to Puerto Rico (such as ownership of property, payment of taxes, and/or presence of family), and the possible existence of a fixed home elsewhere.

7 FAM 1122.2-2 Status Acquired by Birth in Puerto Rico After Annexation but Before March 2, 1917

(TL:CON-66; 10-10-96)

- a. A child born in Puerto Rico after April 11, 1900, and before March 2, 1917, acquired Puerto Rican citizenship and non-citizen U.S. nationality if one of its parents was a Puerto Rican citizen under Section 7 of the Act of April 12, 1900 (see 7 FAM 1122.2-1 b (1)).
- b. If the child was born out of wedlock to a Puerto Rican father and an alien mother, legitimation was necessary before the child acquired the father's status. A child who acquired Puerto Rican citizenship through a parent could benefit from the Act of March 2, 1917 (see 7 FAM 1122.2-3).
- c. A child born in Puerto Rico to alien parents did not acquire U.S. nationality or Puerto Rican citizenship at birth. Aliens born in Puerto Rico could acquire citizenship by naturalization in the usual fashion or by taking the steps required by the Act of March 2, 1917, or the Act of March 4, 1927 (described in 7 FAM 1122.2-3(a)(5), or by meeting the conditions specified by the Act of June 27, 1934 (see 7 FAM 1122.2-4 (b))

7 FAM 1122.2-3 U.S. Citizenship Granted to Citizens of Puerto Rico and Certain Natives of Puerto Rico

(TL:CON-66; 10-10-96)

- a. Act of March 2, 1917:
 - (1) The Act of March 2, 1917 (39 Stat. 953) granted U.S. citizenship as of that date to all citizens of Puerto Rico and to certain natives of Puerto Rico who had been absent from Puerto Rico on April 11, 1899, but had returned to reside permanently. Section 5 of the Act provided:
 - That all citizens of Puerto Rico, as defined by section seven of the Act of April twelfth, nineteen hundred ... and all natives of Puerto Rico, who were temporarily absent from that island on April eleventh, eighteen hundred and ninety-nine, and have since returned and are permanently residing in that island, and are not citizens of any foreign country, are hereby declared, and shall be deemed and held to be, citizens of the United States: Provided, That any person hereinbefore described may retain his present political status by making a declaration, under oath, of his decision to do so within six months of the taking effect of this Act before the district court in the district in which he resides...

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- (2) The following persons who did not make the declaration mentioned in Section 5 became U.S. citizens as of March 2, 1917:
 - (a) All citizens of Puerto Rico regardless of their place of residence on March 2, 1917.
 - (b) All natives of Puerto Rico who were not citizens of any foreign country and who were absent from Puerto Rico when the United States acquired it but had returned to Puerto Rico and were residing there on March 17, 1917.
- (3) In addition, alien women who were married to Puerto Rican citizens acquired U.S. citizenship automatically upon their husbands' acquisition of U.S. citizenship pursuant to Section 5, unless they were ineligible for naturalization.
- (4) The opportunity to decline U.S. citizenship was included in Section 5 in recognition of the Puerto Rican nationalism of many Puerto Ricans. The Act of March 4, 1927, (44 Stat. 1418) allowed a person to repudiate such a declaration within the year following the date of that Act and thereby to acquire U.S. citizenship. Section 322 NA permitted persons who had declared their intention not to become U.S. citizens under the Act of March 2, 1917, to acquire U.S. citizenship by making a declaration before the U.S. District Court of Puerto Rico at any time.
- (5) Other provisions of Section 5 of the Act of March 2, 1917, not quoted in 7 FAM 1122.2-2, permitted permanent residents of Puerto Rico who had been born there to alien parents to acquire U.S. citizenship by declaring allegiance before the U.S. District Court for Puerto Rico within 6 months after March 2, 1917, or within 1 year of reaching age 21, if the person was still a minor on March 2, 1917. The Act of March 4, 1927, amended Section 5 to provide that qualified persons who had not taken the opportunity to become U.S. citizens by making such a declaration had another chance to do so before March 4, 1928.

7 FAM 1122.2-4 U.S. Citizenship of Persons Born in Puerto Rico On or After March 2, 1917, and Before January 13, 1941

(TL:CON-66; 10-10-96)

- a. The Act of March 2, 1917, as originally enacted, did not make any provisions for acquiring U.S. citizenship by birth in Puerto Rico.
- b. The first law specifically relating to the acquisition of U.S. citizenship by birth in Puerto Rico was the Act of June 27, 1934 (48 Stat. 1245), which amended the Act of March 2, 1917, and stated, in Section 5b, that:
 - All persons born in Puerto Rico on or after April 11, 1899 (whether before or after the effective date of this Act) and not citizens, subjects, or nationals of any foreign power, are hereby declared to be citizens of the United States:

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Provided, That this Act shall not be construed as depriving any person, native of Puerto Rico, of his or her American citizenship heretofore otherwise lawfully acquired by such person; or to extend such citizenship to persons who shall have renounced or lost it under the treaties and/or laws of the United States or who are now residing permanently abroad and are citizens or subjects of a foreign country.....

- c. Under this Act, persons born in Puerto Rico after April 10, 1899, who were not U.S. citizens on June 27, 1934, acquired U.S. citizenship on that date unless they:
 - (1) Had acquired a foreign nationality at birth;
 - (2) Had in some way lost previously acquired U.S. citizenship before June 27, 1934; or
 - (3) Were on that date foreign citizens residing abroad.
- d. Under the same Act, persons born in Puerto Rico on or after June 27, 1934, but before January 13, 1941, became U.S. citizens at birth, unless they acquired a foreign nationality at birth through a parent.
- e. The Act of June 27, 1934, was intended to confer citizenship only on persons born in Puerto Rico who would otherwise be stateless; thus, acquisition of a foreign nationality in any manner, including by automatic operation of foreign law, would keep a person born in Puerto Rico from benefiting from the Act of June 27, 1934.
- f. Absent other laws conferring citizenship, a person born in Puerto Rico to two U.S. citizen parents could acquire U.S. citizenship under either the original or the amended version of Section 1993, Rev Stat. (see 7 FAM 1135). Such a person, who met the conditions specified in the 1934 amendment of the Act of March 2, 1917, or Section 202 NA, was not obliged to comply with applicable retention requirements.
- g. Persons born in Puerto Rico to aliens from March 2, 1917 to January 13, 1941 acquired no claim to U.S. citizenship unless they:
 - (1) Met the conditions of the 1934 amendment to the Act of March 2, 1917;
 - (2) Were residing in the United States on January 13, 1941, when the Nationality Act of 1940 went into effect;
 - (3) Made a declaration before the District Court for Puerto Rico upon reaching age 21 or within one year thereafter; or
 - (4) Were naturalized as prescribed by U.S. law.

7 FAM 1122.2-5 Effect of the Nationality Act of 1940 on Persons Born in Puerto Rico

(TL:CON-66; 10-10-96)

- a. The Nationality Act of 1940, effective January 13, 1941, provided that:
 - SEC 202. All persons born in Puerto Rico on or after April 11, 1899, subject to the jurisdiction of the United States, residing on the effective date of this Act in Puerto Rico or other territory over which the United States exercises rights of sovereignty and not citizens of the United States under any other Act, are hereby declared to be citizens of the United States
- b. To benefit from Section 202, a person did not have to be in Puerto Rico or other U.S. territory on January 13, 1941, as long as the person's residence there or in other U.S. territory continued. In *Puig Jimenez v. Glover*, 255 F.2d 54 (1st Cir., 1958), it was held that a woman born in Puerto Rico in 1922 to Spanish permanent residents of Puerto Rico, who accompanied her parents on a visit to Spain in 1936 and was unable to return to the United States until July 14, 1941, because of the Spanish Civil War, could still be considered a resident of Puerto Rico within the meaning of Section 202, NA and had acquired U.S. citizenship.
- c. Puerto Rico came within the 1940 Act's definition of "United States." Persons born there on or after January 13, 1941, acquired U.S. citizenship on the same terms as persons born in other parts of the United States. The current laws are quoted in 7 FAM 1122.1 .

7 FAM 1122.3 Status Acquired By Birth Abroad to Puerto Rican U.S. Nationals

(TL:CON-66; 10-10-96)

- a. Section 7 of the Act of April 12, 1900 provided that a child born any time after April 11, 1899, in any place to a person who became a Puerto Rican citizen and a non-citizen U.S. national pursuant to the Treaty of Peace with Spain and the Act of April 12, 1900, acquired the Puerto Rican citizen parent's status at birth.
- b. To acquire the father's status a child born out of wedlock to a Puerto Rican father and an alien mother had to be legitimated.
- c. A child who acquired Puerto Rican citizenship by birth abroad to a Puerto Rican parent was entitled to U.S. citizenship automatically under the Act of March 2, 1917 (quoted in 7 FAM 1122.2-3).

7 FAM 1123 VIRGIN ISLANDS (U.S.)

7 FAM 1123.1 Current Law

(TL:CON-66; 10-10-96)

- a. The Virgin Islands of the United States come within the definition of "United States" given in Section 101(a)(38) INA. A person born there now acquires U.S. citizenship in the same way as one born in any of the 50 States. Section 301(a) INA applies.
- b. Section 306 INA (8 U.S.C. 1406) pertains specifically to the Virgin Islands:
 - SEC 306. (a) The following persons and their children born subsequent to January 17, 1917, and prior to February 25, 1927, are declared to be citizens of the United States as of February 25, 1927
 - (1) All former Danish citizens who, on January 17, 1917, resided in the Virgin Islands of the United States, and were residing in those islands or in the United States or Puerto Rico on February 25, 1927, and who did not make the declaration required to preserve their Danish citizenship by article 6 of the treaty entered into on August 4, 1916, between the United States and Denmark, or who, having made such a declaration have heretofore renounced or may hereafter renounce it by a declaration before a court of record;
 - (2) All natives of the Virgin Islands of the United States who, on January 17, 1917, resided in those islands, and were residing in those islands or in the United States or Puerto Rico on February 25, 1927, and who were not on February 25, 1927, citizens or subjects of any foreign country;
 - (3) All natives of the Virgin Islands of the United States who, on January 17, 1917, resided in the United States, and were residing in those islands on February 25, 1927, and who were not on February 25, 1927, citizens or subjects of any foreign country; and
 - (4) All natives of the Virgin Islands of the United States who, on June 28, 1932, were residing in continental United States, the Virgin Islands of the United States, Puerto Rico, the Canal Zone, or any other insular possession or territory of the United States, and who, on June 28, 1932, were not citizens or subjects of any foreign country, regardless of their place of residence on January 17, 1917.
- b. All persons born in the Virgin Islands of the United States on or after January 17, 1917, and prior to February 25, 1927, and subject to the jurisdiction of the United States are declared to be citizens of the United States as of February 25, 1927; and all persons born in those islands on or after February 25, 1927, and subject to the jurisdiction of the United States, are declared to be citizens of the United States at birth.

7 FAM 1123.2 Nationality Status Before December 24,

1952

7 FAM 1123.2-1 Status of Inhabitants After Transfer to U.S. Sovereignty

(TL:CON-66; 10-10-96)

- a. The Virgin Islands of the United States, formerly the Danish West Indies, were purchased from Denmark on August 4, 1916. The convention making effective such purchase was ratified and came into force on January 17, 1917.
- b. Article 6 of the convention states that:
 - Danish citizens who remain in the islands may preserve their citizenship in Denmark by making before a court of record, within one year from the date of the exchange of ratifications in this convention, a declaration of their decision to preserve such citizenship; in default of which declaration they shall be held to have renounced it, and to have accepted citizenship in the United States; for children under the age of eighteen years the declaration may be made by their parents or guardians. Such election of Danish citizenship shall however not, after the lapse of the said term of one year, be a bar to their renunciation of their preserved Danish citizenship and their election of citizenship in the United States and admission to the nationality thereof on the same terms as may be provided according to the laws of the United States, for other inhabitants of the islands
 - The civil rights and the political status of the inhabitants of the islands shall be determined by Congress, subject to the stipulations contained in the present Convention
- c. Even though the convention referred to "citizenship in the United States" rather than U.S. nationality, it was administratively held that, consistent with the rulings of the Supreme Court in the "Insular Cases" on the status of inhabitants of territories acquired by treaty (see 7 FAM 1121.2-2 a), Danish citizens residing in the U.S. Virgin Islands on January 17, 1917, who did not elect to preserve their Danish citizenship became non-citizen U.S. nationals (3 Hackworth, Digest of International Law 147; 38 Op Atty. Gen. 525 (1936); 3 I. & N. 870 (1950); 6 I. & N. 226 (1954)).
- d. Temporary absence from the Virgin Islands at the time of cession did not preclude acquisition of U.S. nationality if the person was otherwise qualified. For instance:
 - (1) The Department construed "residence" to mean a permanent dwelling place to which the person, when absent, intended to return.
 - (2) In determining whether someone could be considered an inhabitant of the islands within the meaning of the treaty, the Department required the person to provide proof of being a bona fide resident of the islands before annexation and of having had a definite intention to return.

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- (3) The Department considered such factors as the temporary nature of the absence (schooling, business trip, and so forth); evidence of a permanent connection to the islands (such as ownership of property, payment of taxes, and/or the presence of family in the islands), and the lack of fixed abode elsewhere.
- e. The nationality of the non-Danish residents of the Virgin Islands was not affected by the convention.
- f. The Acts of February 25, 1927 (44 Stat. 1234) and June 28, 1932 (47 Stat. 336) granted U.S. citizenship to Virgin Island natives born prior to annexation if they met certain criteria, now codified in Section 306, INA (quoted in 7 FAM 1123.1 b).

7 FAM 1123.2-2 Status Acquired by Birth in the Islands After Annexation but Before February 25, 1927

(TL:CON-66; 10-10-96)

- a. After annexation and before February 25, 1927 persons born to two U.S. nationals in the Virgin Islands acquired non-citizen U.S. nationality.
- b. A child born there to two aliens did not acquire U.S. nationality at birth.
- c. The status of persons born there, subject to U.S. jurisdiction, on or after January 17, 1917, was altered by the Act of February 25, 1927 as quoted in 7 FAM 1123.2-3.

7 FAM 1123.2-3 Laws Granting U.S. Citizenship to Persons Born in the Virgin Islands

(TL:CON-66; 10-10-96)

- a. The first law to govern acquisition of U.S. citizenship by birth in the Virgin Islands was the Act of February 25, 1927 (44 Stat. 1234), which became effective from the date of enactment.
- b. Section 3 of that law stated that:
 - All persons born in the Virgin Islands on or after January 17, 1917 (whether before or after the effective date of this Act), and subject to the jurisdiction of the United States, are hereby declared citizens of the United States
- c. The Virgin Islands came within the definition of "United States" given in the Nationality Act of 1940, and Section 201(a) NA applied to persons born in the Virgin islands. For the current law, see 7 FAM 1123.1b .

7 FAM 1123.2-4 Status Acquired by Birth Outside the Islands to Former Danish Residents or Natives of the Islands

(TL:CON-66; 10-10-96)

- a. Children born between January 17, 1917 and February 25, 1927 to someone who became a U.S. citizen under Section 1 of the Act of February 1, 1927, were declared U.S. citizens as of February 25, 1927, regardless of their birthplace.
- b. The provisions of Section 1 were the same as those of Section 306(a)(1)-(3) INA (quoted in 7 FAM 1123.1 b).

7 FAM 1124 GUAM

7 FAM 1124.1 Current Law

(CT:CON-315 09-03-2009)

- a. Persons born in Guam on or after December 24, 1952, acquire U.S. citizenship at birth. Guam is listed as part of the geographical definition of the "United States" in Section 101 (a)(38) INA. Section 301(a) INA provides that a person born in and subject to the jurisdiction of the United States shall be a U.S. citizen. Section 307(b) INA conferred U.S. citizenship upon anyone born in Guam after April 11, 1899. Only those who affirmed or acquired a foreign nationality before August 1, 1950 are not U.S. citizens.
- b. The first law to confer U.S. citizenship on the inhabitants of Guam was the Organic Act of August 1, 1950 (64 Stat. 384)("the Organic Act"), which incorporated Guam into the United States. Section 4 of the Organic Act added Section 206 to the Nationality Act of 1940. The provisions of Section 206 NA for the citizenship of natives and inhabitants of Guam were the same as those in Section 307 INA:
 - (1) SEC 307: (a) The following persons, and their children born after April 11, 1899, are declared to be citizens of the United States as of August 1, 1950, if they were residing on August 1, 1950, on the island of Guam or other territory over which the United States exercises rights of sovereignty
 - (2) All inhabitants of the island of Guam on April 11, 1899, including those temporarily absent from the island on that date, who were Spanish subjects, who after that date continued to reside in Guam or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire foreign nationality; and
 - (3) All persons born in the island of Guam who resided in Guam on April 11, 1899, including those absent from the island on that date, who after that date continued to reside in Guam or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire foreign nationality.

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- (a) All persons born in the island of Guam on or after April 11, 1899 (whether before or after August 1, 1950) subject to the jurisdiction of the United States, are hereby declared to be citizens of the United States: Provided, That in the case of any person born before August 1, 1950, he has taken no affirmative steps to preserve or acquire foreign nationality.
- (b) Any person hereinbefore described who is a citizen or a national of a country other than the United States and desires to retain his present political status shall have made, prior to August 1, 1952, a declaration under oath of such desire, said declaration to be in form and executed in the manner prescribed by regulations. From and after the making of such a declaration any such person shall be held not to be a national of the United States by virtue of this Act.
- c. Section 307(c) INA protects the foreign nationality of the Guamanian inhabitants who had made timely declaration pursuant to the treaty of cession or to the Organic Act.
- d. The phrase "subject to the jurisdiction of the United States" in Section 307(b) INA refers to a condition at the time of birth and does not require residence in Guam or other territory over which the United States had jurisdiction on August 1, 1950, when these provisions originally were enacted as part of the Organic Act. For more information on the meaning of "subject to the jurisdiction of the United States", see 7 FAM 1112.

7 FAM 1124.2 Nationality Status Before December 24, 1952

7 FAM 1124.2-1 Status of Inhabitants After Annexation and Before August 1, 1950

(TL:CON-66; 10-10-96)

- a. Guam was acquired from Spain on December 10, 1898, as a result of the Spanish-American War. Article IX the Treaty of Paris (30 Stat. 1754), ratified on April 11, 1899, if the civil rights and political status of the native inhabitants of the ceded territory would be determined by Congress.
- b. Until the Nationality Act of 1940 was amended by the Organic Act, on August 1, 1950, no law addressed the civil rights and political status of the inhabitants of Guam. The Department held that Spanish subjects, including natives of Guam and natives of the Spanish Peninsula (that is, persons born in Spain), who were residing in Guam at the time of its annexation became nationals, but not citizens, of the United States.
- c. The only exceptions were Spanish subjects born in Spain who had kept their allegiance to Spain by making a declaration before October 11, 1900, as

provided for in the Treaty of Paris.

7 FAM 1124.2-2 Status Acquired by Birth In Guam After Annexation And Before August 1, 1950

(TL:CON-13; 12-31-84)

- a. Before August 1, 1950, the effective date of the Organic Act, it was held that:
 - (1) A person born in Guam on or after April 11, 1899, in wedlock to a U.S. national father or out of wedlock to a U.S. national mother became a non-citizen U.S. national at birth.
 - (2) Children born in Guam to U.S. citizens acquired U.S. citizenship under the conditions that applied to persons born abroad.
 - (3) Persons born in Guam to aliens did not acquire U.S. nationality at birth.
- b. The following provisions of the Nationality Act of 1940 were not retroactive:
 - (1) Section 201(e) NA, as quoted in 7 FAM 1121.4-1 b, set the terms under which U.S. citizenship could be acquired by birth in Guam from January 13, 1941, until Section 206 NA was added on August 1, 1950, pursuant to Section 4 of the Organic Act.
 - (2) Section 204(a) NA, as quoted in 7 FAM 1121.4-1 c, governed the acquisition of non-citizen U.S. nationality by birth in Guam.

7 FAM 1124.2-3 Status Acquired by Birth Abroad to Natives or Inhabitants of Guam Who Had Acquired Non-citizen U.S. Nationality

(TL:CON-66; 10-10-96)

No special law was enacted to address the status of foreign-born children of Guamanians who were not U.S. citizens. The considerations discussed in 7 FAM 1140 apply.

7 FAM 1125 AMERICAN SAMOA AND SWAINS ISLAND

7 FAM 1125.1 Current Law

(TL:CON-66; 10-10-96)

- a. As defined in Section 101(a)(29) INA, the term "outlying possession" of the United States applies only to American Samoa and Swains Island.
- b. American Samoa and Swains Island are not incorporated territories, and the

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citizenship provisions of the Constitution do not apply to persons born there.

- c. Section 301(e) INA provides for acquisition of U.S. citizenship by birth in outlying possessions to one U.S. citizen parent who has been physically present in the United States or one of its outlying possessions for a continuous period of one year at any time prior to the birth of such person. Section 309 INA made Section 301(e) applicable to children born out of wedlock under certain conditions (see 7 FAM 1133.4).
- d. Section 308(1) and (3) INA provides non-citizen U.S. nationality for the people born (or foundlings) in American Samoa and Swains Island (see 7 FAM 1121.4-2 for text of Sec 308 (1) and (3) INA).
- e. By its wording, Section 308(1) INA is retroactive, effectively granting U.S. non-citizen nationality status to anyone born in American Samoa or Swains Island after annexation (February 16, 1900 for American Samoa and March 4, 1925 for Swains Island) and before December 24, 1952, who did not acquire non-citizen U.S. nationality at the time of birth.

7 FAM 1125.2 Nationality Status of Inhabitants After Annexation

(TL:CON-66; 10-10-96)

- a. American Samoa was ceded to the United States by a treaty entered into by the United States, Germany, and Great Britain dated December 2, 1899, and ratified February 16, 1900. The treaty did not address the issue of the nationality of the people living on those islands.
- b. On February 16, 1900, the date of annexation:
 - (1) People living in American Samoa who formerly owed allegiance to Germany or Great Britain became non-citizen U.S. nationals, unless they exercised their right to retain their former nationality by removal from American Samoa or otherwise.
 - (2) The native inhabitants of American Samoa who belonged to a race indigenous to those islands also became non-citizen U.S. nationals.

NOTE: The same ethnic groups lived on other nearby islands, including Western Samoa, but only those born on the islands that became American Samoa could benefit from the terms of the treaty.

- c. The joint resolution of March 4, 1925, pertaining to Swains Island stated that:
 - Whereas Swains Island ... is included in the list of guano islands appertaining to the United States, which have been bonded under the Act of Congress approved August 18, 1856
 - Whereas the island has been in the continuous possession of American citizens for over fifty years and no form of government therefore or for the inhabitants thereof has been provided by the United States

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- Therefore, be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that sovereignty of the United States over American Samoa is hereby extended over Swains Island, which is made a part of American Samoa
- d. Native inhabitants of Swains Island of a race indigenous to that island who were not already U.S. citizens or nationals became non-citizen U.S. nationals if residing in Swains Island on March 4, 1925.

7 FAM 1125.3 Acquisition of Non-citizen U.S. Nationality by Birth Outside Outlying Possessions

(TL:CON-66; 10-10-96)

See 7 FAM 1140.

7 FAM 1126 COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS (CNMI)

7 FAM 1126.1 Summary

(CT:CON-407; 06-29-2012)

- a. This instruction outlines policy and procedures for the adjudication of applications for persons claiming citizenship under the Covenant to Establish the Commonwealth of the Northern Mariana Islands in Political Union with the United States (Act of Mar. 24, 1976, Public Law No. 94-241, 90 Stat. 263, 48 U.S.C. 1801 (CNMI Covenant)).
- b. The Trust Territory of the Pacific Islands (TTPI) was established on July 18, 1947. The TTPI originally included the areas, which are now the Commonwealth of the Northern Mariana Islands (CNMI), the Republic of the Marshall Islands (RMI), and the Federated States of Micronesia (FSM), as well as the Republic of Palau.
- c. The trusteeship agreement was terminated for the majority of the territory in late 1986. The Northern Mariana Islands became the self-governing Commonwealth of the Northern Mariana Islands (CNMI), in political union with and under the sovereignty of the United States, on November 4, 1986. The Marshall Islands became the Republic of the Marshall Islands (RMI), a sovereign country in free association with the United States, on October 21, 1986. The Federated States of Micronesia (FSM) became a sovereign country in free association with the United States on November 4, 1986. The Republic of Palau (ROP) became a sovereign country in free association with the United States on October 1, 1994.
- d. The TTPI was not considered to be part of the United States for the purposes of

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the INA, and persons born there did not acquire citizenship by birth in the United States. Under Sections 501, 503 and 506 of the CNMI Covenant, the CNMI is considered to be part of the United States under the INA only for the purposes and to the extent specified under Section 506(b) and (c). Section 506(b), which entered into force at 12:01 a.m. on November 4, 1986, Saipan time (9 a.m. EST November 3, 1986) states that "(w)ith respect to children born abroad to United States citizen or non-citizen national parents permanently residing in the Northern Mariana Islands, the provisions of Section 301 and 308 of the Act will apply." The Department of State interprets Section 506(b) as only allowing periods of residence or physical presence in the Northern Marianas after 12:01 a.m. on November 4, 1986, Saipan time (9 a.m. EST November 3, 1986) to be counted as periods of residence or physical presence in the United States for the purposes of meeting parental residence or physical presence requirements under Sections 301 and 308.

- e. At 12:01 a.m. on November 4, 1986, Saipan time (9:01 a.m. EST November 3, 1986) Article III (Citizenship and Nationality) of the CNMI Covenant (containing Sections 301, 302, 303) entered into force. It granted U.S. citizenship to certain natives and/or residents of the CNMI. In addition, the Department has decided to apply the Sabangan decision (see 7 FAM 1126.3(c)(5)) holding that two individuals born in the NMI on or after 11 A.M. January 9, 1978, Saipan time (8 P.M. EST January 8, 1978) and prior to 12:01 A.M. November 4, 1986, Saipan time (9:01 a.m. EST November 3, 1986), acquired citizenship under Section 501(a) of the CNMI Covenant to all individuals who were born in the NMI during that time period.
- f. Republic of the Marshall Islands, Federated States of Micronesia and Republic of Palau Citizens: The Compacts of Free Association relative to the RMI, the FSM and Palau did not grant U.S. citizenship to persons who did not otherwise acquire it under U.S. law. These independent States are considered foreign countries for nationality purposes.
- g. Department Referrals: Since acquisition of U.S. citizenship under the Covenant can be very complex, consular officers at U.S. embassies and consulates with such cases may wish to contact CA/OCS/ACS or CA/OCS/L for guidance. Adjudication Managers at U.S. Passport Agencies with such cases may wish to contact PPT/PAS or PPT/HH for guidance.

7 FAM 1126.2 Authorities

(CT:CON-105; 06-01-2005)

- a. Article III, CNMI Covenant, Sections 301, 302, 303, and 304. 48 U.S.C. 1801 Approval of Covenant to Establish Commonwealth of Northern Mariana Islands. This statute includes the provisions of the Covenant. See also pages 497-500, Appendix Roman Number V, of the 104th Congress, 1st Session, Committee Print, Immigration, and Nationality Act (10th Edition).

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Article III, Citizenship and Nationality, CNMI Covenant

Section 301. The following persons and their children under the age of 18 years on the effective date of this Section, who are not citizens or nationals of the United States under any other provision of law, and who on that date do not owe allegiance to any foreign state, are declared to be citizens of the United States, except as otherwise provided in Section 302:

(a) All persons born in the Northern Mariana Islands who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, and who on that date are domiciled in the Northern Mariana Islands or in the United States or any territory or possession thereof;

(b) All persons who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, who have been domiciled continuously in the Northern Mariana Islands for at least five years immediately prior to that date, and who, unless under age, registered to vote in elections for the Marianas Islands District Legislature or for any municipal election in the Northern Mariana Islands prior to January 1, 1975; and

(c) All persons domiciled in the Northern Mariana Islands on the day preceding the effective date of this Section, who, although not citizens of the Trust Territory of the Pacific Islands, on that date have been domiciled continuously in the Northern Mariana Islands beginning prior to January 1, 1974.

Section 302. Any person who becomes a citizen of the United States solely by virtue of the provisions of Section 301 may within six months after the effective date of that Section or within six months after reaching the age of 18 years, whichever date is the later, become a national but not a citizen of the United States by making a declaration under oath before any court established by the Constitution or laws of the United States or any court of record in the Commonwealth in the form as follows: "I ----- being duly sworn, hereby declare my intention to be a national but not a citizen of the United States."

Section 303. All persons born in the Commonwealth on or after the effective date of this Section [See Sec. 1003 of this note] and subject to the jurisdiction of the United States will be citizens of the United States at birth.

- b. Other U.S. Citizenship Laws. In general, applicants who have claims to citizenship under any other U.S. law should be documented under that law and not the CNMI Covenant. For example, a person born in the NMI of one U.S. citizen parent before January 9, 1978, should be documented under Section

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301(g) of the INA, or applicable provisions of the Nationality Act of 1940. However, applicants born in the NMI of one or two parent(s) born in Guam before 1950 generally should be documented under Section 301(c) of the CNMI Covenant, as it is often difficult or impossible for them to obtain the evidence needed to document their claims under other laws. These customers should be advised that if their claims under the Covenant are established, they will acquire citizenship as of November 4, 1986, as opposed to on the date of their birth, which would be the case if they were able to submit sufficient documentation under INA 301(g).

7 FAM 1126.3 Interpreting the Citizenship and Nationality Provisions of the Covenant

(CT:CON-315; 09-03-2009)

- a. When it went into effect in 1986, Section 301 of the Covenant was difficult to administer since it established a complicated set of criteria under which a CNMI domiciliary could acquire U.S. citizenship. These provisions required that the nationality of the applicant's parents and grandparents be ascertained in order to determine if the applicant acquired TTPI citizenship or possessed another nationality at the time of the effective date of the Covenant.
- b. The language of the citizenship provisions and the Department's strict application of the law required judicial and negotiated interpretations.
- c. Court Decisions. There have been several court decisions, which shaped the Department's interpretation of definitions appearing in the CNMI Covenant. The most important of these decisions are as follows:
 - (1) Dela Cruz v. United States (U.S.D. Ct. CNMI, July 31, 1987) granted citizenship to persons who were under the age of 18 on November 4, 1986, were domiciled in the NMI or the U.S. on that date and were born in the NMI of at least one parent born in the former Trust Territory. The Dela Cruz decision went further to define "all persons" as used in Section 301 as any person and his or her child or children. Child is defined in Section 101(b)(1) INA. Such children did not have to be born in the CNMI nor did they have to be domiciled in the CNMI or U.S. on November 4, 1986.
 - (2) Shoda and Reyes v. United States (U.S.D. Ct. CNMI, August 3, 1988) allowed for acquisition of citizenship for persons who were 18 or older on November 4, 1986, were domiciled in the NMI or the U.S. on that date and were born in the NMI of at least one parent born in the former Trust Territory.
 - (3) Barasi v. United States (U.S.D. Ct. CNMI, August 3, 1988) provided guidelines for determining whether an applicant met the continuous domicile requirement of Section 301(c) of the Covenant, as follows:
 - (a) The totality of the applicant's conduct will be used to determine

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domicile;

- (b) The substantially continuous presence of the applicant in the NMI since before 1974 will be viewed as affirmative evidence of his or her intent to remain in the NMI indefinitely and accorded great weight; and
 - (c) Any official statement to the contrary about his or her residence made by the applicant will not by itself serve to negate his or her true intent.
- (4) *Amog v. United States* (U.S.D. Ct. CNMI, May 1, 1991) reaffirmed the Department's position that persons born in the CNMI on or after January 1, 1974 and before November 4, 1986 of two alien parents, neither of who acquired U.S. citizenship under the Covenant did not acquire U.S. citizenship pursuant to the Covenant. Caution: Some of these individuals were admitted to the United States by showing only their CNMI birth certificate, and may file a U.S. passport application. However, as a result of Sabangan, now the Amog class consists of only persons born in the CNMI between January 1, 1974 and 11 a.m., Saipan time January 9, 1978 (8 p.m. EST January 8, 1978) of two alien parents, neither of whom acquired U.S. citizenship under the Covenant. This subset of the original Amog class does not acquire U.S. citizenship pursuant to the Covenant.
- (5) In *Sabangan v. Powell*, 375 F.3d 818 (2004), a panel of the U.S. Court of Appeals (9th Circuit) held that two individuals born in the Northern Mariana Islands between January 9, 1978, and November 3, 1986, acquired U.S. citizenship under section 501(a) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America. The court reasoned that beginning at 11 A.M. January 9, 1978 (Saipan time), when Section 501(a) made Section 1 of Amendment 14 of the U.S. Constitution applicable in the Northern Marianas Islands under Section 501(a) "as if the Northern Mariana Islands were one of the several States," the Northern Mariana Islands were to be treated as if they were "in the United States" for purposes of the Citizenship Clause in the first sentence of Section 1 of Amendment 14. Although the Department (CA and L/CA) believed the decision was clearly erroneous, the Solicitor General's office did not seek Supreme Court review, and it is now final. In order to maintain a uniform application of the nationality laws and for operations reasons, the Department (CA) decided to apply the decision worldwide. Applications from individuals who were born in the Northern Mariana Islands between 11 a.m., Saipan time January 9, 1978 (8 P.M. EST, January 8, 1978) and 12:01 a.m. November 4, 1986 (9 a.m. EST, November 3, 1986), who provide satisfactory birth records and evidence of identity, and who otherwise meet the requirements and qualifications may be approved and a U.S. passport may be issued.

7 FAM 1126.5 Adjudicating Claims Under the Covenant

7 FAM 1126.5-1 General Procedures

(CT:CON-105; 06-01-2005)

- a. Application Requirements. All first time applicants claiming citizenship or nationality under the CNMI Covenant are required to submit:
 - (1) A completed DS-11;
 - (2) Two passport photographs;
 - (3) Current identification;
 - (4) The required passport fees; and
 - (5) Evidence of U.S. citizenship or nationality.
- b. Supplemental Statement: In addition, an applicant claiming U.S. citizenship or nationality under Section 301 of the Covenant must complete a "Supplemental Statement for Applicants Claiming Citizenship Under Public Law 94-241," which must be signed in the presence of a consular officer at a U.S. embassy or consulate or a passport acceptance agent or passport specialist in the United States. The supplemental statement contains the applicant's oath or affirmation that he or she did not owe allegiance to any other state on the effective date of the CNMI Covenant. It also includes a statement as to whether the applicant has declared his or her intention to become a non-citizen national. See 7 FAM Exhibit 1126.4. When completed, the supplemental statement becomes a part of the application for a passport with which it is submitted.
- c. Evidence of Citizenship. Passport issuing officers at U.S. embassies and consulates abroad and U.S. Passport Agencies shall note all evidence provided on the application and/or a separate sheet of paper. Note in the evidence block the law and section under which the applicant acquired citizenship or nationality (for example, Public Law 94-241 Section 301(a)). Knowledge of the statute under which the applicant acquired will be necessary when they wish to transmit citizenship to their own children. A U.S. passport for the parent by itself will not suffice. See 7 FAM Exhibits 1126.5, 1126.6, and 1126.7 Charts.

7 FAM 1126.5-2 Definitions

(CT:CON-105; 06-01-2005)

Citizens of the Trust Territory of the Pacific Islands. A person is considered a citizen of the TTPI for the purposes of Sections 301(a) and 301(b) of the CNMI Covenant if as of November 3, 1986 (Saipan time) he or she:

- (1) Had been born in the former TTPI (CNMI, RMI, FSM and Palau) and one or both parent(s) had been born in the former TTPI;

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- (2) Had been born outside the former TTPI to two TTPI citizen parents, and, if over 21 on November 3, 1986, became a permanent resident of the TTPI before reaching that age;
 - (3) Had been naturalized as a TTPI citizen.
- Domicile. Section 1005(e) of the CNMI Covenant defines "domicile" as "the place where a person maintains a residence with the intention of continuing such residence for an unlimited or indefinite period, and to which such person has the intention of returning whenever he is absent, even for an extended period"

NOTE: A post office box is not evidence of domicile.

7 FAM 1126.5-3 Applicants Claiming Citizenship Under Section 301(a) of the Covenant

(CT:CON-105; 06-01-2005)

Section 301(a) of the Covenant confers citizenship on an individual who (1) was a citizen of the former TTPI (as defined in 7 FAM 1126.5-2) and who was domiciled in the NMI, the United States or any U.S. territory or possession on November 3, 1986 (Saipan time). Such applicants must provide the following evidence of citizenship: (See 7 FAM Exhibit 1126.5 Chart)

- (1) Certified copy of his or her birth certificate. If a birth certificate is not on file he or she must submit a letter of no record from the CNMI clerk of court, plus a baptismal certificate or other secondary evidence (Note: Since many records were destroyed during World War II, most applicants born before 1950 do not have certified birth certificates or have delayed birth records); and
- (2) Evidence of the TTPI citizenship of either parent. If the application and birth certificate show that one parent was born in the former TTPI, no other evidence is needed. Otherwise, the applicant must submit the parent's TTPI naturalization certificate or other evidence of the parent's TTPI citizenship.

Note: Applications for persons born in the NMI who did not acquire citizenship under Section 301(a) of the Covenant should be adjudicated for possible acquisition under Section 301(b) or Section 301(c).

7 FAM 1126.5-4 Applicants Claiming Under Section 301(b) of the Covenant

(CT:CON-105; 06-01-2005)

Section 301(b) confers U.S. citizenship as of November 4, 1986 on a person who was: a citizen of the former TTPI (as defined in 7 FAM 1126.5-2) on November 3,

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1986, domiciled continuously in the NMI from at least November 4, 1981 to November 3, 1986, and registered to vote, unless under age, in NMI elections before January 1, 1975. These applicants must provide the following evidence of citizenship: (See 7 FAM Exhibit 1126.6 Chart)

- (1) A certified copy of his or her birth certificate. If a birth certificate is not on file, he or she must submit a letter of no record from the registrar of the applicant's country of birth, plus a baptismal certificate or other secondary evidence (Note: Since many records were destroyed during World War II, most applicants born before 1950 do not have certified birth certificates or have delayed birth records);
- (2) Evidence of the applicant's TTPI citizenship as of November 3, 1986. If the applicant was born in the TTPI, and the application and birth certificate show that one parent was born in the former TTPI, no other evidence is needed. Otherwise, the applicant must also provide evidence of either parent's TTPI citizenship. (Note: If the applicant was born outside the TTPI, and was 21 or older on November 3, 1986, he or she must also provide evidence that he or she became a permanent resident of the TTPI while under the age of 21.) If the applicant acquired TTPI citizenship through naturalization, he or she must provide the TTPI naturalization certificate;
- (3) Record of registration to vote in the NMI municipal or legislative election before January 1, 1975, unless the applicant was under age; and
- (4) Documentary evidence of continuous domicile in the NMI from November 4, 1981 through November 3, 1986. Evidence may include entry permits, passports, bank records, business licenses, NMI Social Security records, NMI tax records, children's birth or baptismal certificates, church records, Certificates of Identity, voting records, Trust Territory passports, Trust Territory census records, CNMI Immigration files, hospital or medical records, employment records, real property records car registrations, etc. Employment verification letters and affidavits must be supported by other documentary evidence of domicile. A temporary absence from the NMI does not break the "continuity" of domicile as long as there is evidence that the applicant intended to return to the NMI. Evidence of intent may include evidence of money transfers to the NMI and/or evidence of the residence of family members in the NMI.

NOTE: The Barasi decision (see 7 FAM 1126.3(c)(3)) provides further guidance in defining continuous domicile.

NOTE: Applications for persons born in the former TTPI who did not acquire citizenship under Section 301(a) or Section 301(b) of the Covenant should be adjudicated for possible acquisition under Section 301(c).

7 FAM 1126.5-5 Applicants Claiming Citizenship Under Section 301(c) of the Covenant

(CT:CON-105; 06-01-2005)

Section 301(c) of the Covenant confers citizenship as of November 3, 1986 on a person who (1) was domiciled in the NMI on November 3, 1986, and (2) had been domiciled continuously in the NMI beginning before January 1, 1974,, whether or not he or she was a TTPI citizen. These applicants must provide the following proof of citizenship: See 7 FAM Exhibit 1126.7 Chart.

- (1) A certified copy of his or her birth certificate. If no birth certificate was filed, he or she must submit a letter of no record from the registrar of the applicant's country of birth, plus a baptismal certificate or other acceptable secondary evidence;
- (2) Documentary evidence of continuous domicile in the NMI from before January 1, 1974 through November 3, 1986. Evidence may include entry permits, passports, bank records, business licenses, NMI Social Security records, NMI tax records, children's birth or baptismal certificates, church records, Certificates of Identity, voting records, Trust Territory passports, Trust Territory census records, CNMI Immigration files, hospital or medical records, employment records, real property records, car registrations, etc.
- (3) A temporary absence from the NMI does not break the "continuity" of domicile as long as there is evidence that the applicant intended to return to the NMI. Evidence of intent may include evidence of money transfers to the NMI and/or evidence of the residence of family members in the NMI. The Barasi decision (see 7 FAM 1126.3(c)(3)) provides further guidance in defining continuous domicile.

NOTE: Through a court decision, members of the Pangelinan class do not have to present evidence of domicile for the period January 1, 1974 through March 6, 1977. Consular officers at U.S. embassies and consulates and Passport Specialists at Passports agencies and centers must review the list of plaintiffs in the Pangelinan case to determine if a 301(c) applicant is a part of this class. See 7 FAM Exhibit 1126.5-5 for a list of Pangelinan plaintiffs.

7 FAM 1126.5-6 Minor Children of Applicants Claiming Under the Covenant

(CT:CON-105; 06-01-2005)

- a. The preamble to Section 301 of the CNMI Covenant confers U.S. citizenship on: "The following persons and their children under the age of 18". This language grants U.S. citizenship to the minor children of any person who acquired U.S. citizenship under Section 301 of the CNMI Covenant, no matter where the

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children were born or domiciled on November 3, 1986. This only applies to children who were under the age of 18 on November 3, 1986. Proof of the child's domicile is not required in these cases.

- b. In these cases, passport issuing officers at U.S. embassies and consulates abroad and U.S. Passport Agencies must first establish one natural parent's claim under Section 301(a), 301(b) or 301(c) of the CNMI Covenant. If the parent has been issued a U.S. passport, the consular officer or passport specialist must review the file through PIERS (since it must be determined that the transmitting parent acquired under the Covenant rather than the INA). A timely filed certified birth certificate showing the name(s) of the parent(s) must be provided as evidence of blood relationship.
- c. A child born outside the CNMI after November 3, 1986, does not acquire U.S. citizenship under the CNMI Covenant. Such a person may have a valid claim to U.S. citizenship at birth under Section 301, 308 or 309 INA.
- d. Children adopted by persons who acquired U.S. citizenship under Section 301 of the Covenant are also citizens under Section 301 as of November 4, 1986, if they were under the age of 18 and legally adopted by November 3, 1986. These applicants must provide evidence of their adoptive parent(s)' claim under Section 301(a), 301(b) or 301(c) of the CNMI Covenant, a timely filed certified birth certificate, and a certified adoption decree showing adoption before November 4, 1986. Such applicants need not be nor have been in the NMI at any time. Children adopted after November 3, 1986 do not acquire U.S. citizenship under the CNMI Covenant. However, such children may have a claim pursuant to Section 320(b) INA, as amended. These children must show entry to the U.S. for legal permanent residence. Entry under the compact of Free Association does not constitute entry in legal permanent resident (LPR) status.

7 FAM 1126.6 Section 501(a) of the CNMI Covenant

(CT:CON-105; 06-01-2005)

Under the Sabangan decision (see 7 AM 1126.3(c)(5)), applicants claiming U.S. citizenship under Section 501(a) of the CNMI Covenant must have been born in the Northern Mariana Islands (NMI) at or after 11 A.M. (Saipan time) on January 9, 1978 and prior to 12:01 A.M. (Saipan time) November 4, 1986. As evidence of citizenship, such applicants must provide evidence of birth in the NMI during the relevant period, such as a certified birth certificate or a letter from a civil registrar that no record exists coupled with a baptismal certificate or other secondary evidence of birth.

Section 501.

- (a) To the extent that they are not applicable of their own force, the following provisions of the Constitution of the United States will be applicable within the Northern Mariana Islands as if the Northern Mariana Islands were one of the several States: Article I, Section 9,

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Clauses 2, 3, and 8; Article I, Section 10, Clauses 1 and 3; Article IV, Section 1 and Section 2, Clauses 1 and 2; Amendments 1 through 9, inclusive; Amendment 13; Amendment 14, Section 1; Amendment 15; Amendment 19; and Amendment 26; provided, however, that neither trial by jury nor indictment by grand jury shall be required in any civil action or criminal prosecution based on local law, except where required by local law. Other provisions of or amendments to the Constitution of the United States, which do not apply of their own force within the Northern Mariana Islands, will be applicable within the Northern Mariana Islands only with approval of the Government of the Northern Mariana Islands and of the Government of the United States.

7 FAM 1126.7 Section 303 of the CNMI Covenant

(CT:CON-105; 06-01-2005)

All persons born in the CNMI after November 3, 1986 acquire U.S. citizenship at birth under Section 303 of the Covenant. The applicant must present a certified copy of his or her birth certificate or a letter from a civil registrar that no record exists coupled with a baptismal certificate or other secondary evidence of birth as proof of citizenship.

7 FAM 1126.8 Northern Mariana Identification Card

(CT:CON-105; 06-01-2005)

- a. The "former" U.S. Immigration and Naturalization Service (INS) issued a Northern Mariana Identification Card, from July 1, 1988 through July 1, 1990 only, to persons who could establish a claim to U.S. citizenship under the CNMI Covenant. This card may be accepted as evidence of U.S. citizenship in place of primary documents. However, if there is other evidence that indicates that the applicant did not acquire U.S. citizenship, the consular officer or passport adjudicator may require additional documentation.
- b. The face of the Northern Mariana Identification Card is similar in appearance to an alien registration card, but the general color scheme is red. The fourth line of data contains the place of issue (labeled "POI") rather than the place of entry, and an unlabelled eligibility code. The eligibility code is the letters "MI" followed by a 1, 2, or 3 to indicate the appropriate acquisition section of the Covenant.
- c. The reverse of the card contains the following text:

CNMI Identification Card ...
The reverse side of the card reads:
"THE PERSON IDENTIFIED ON THIS CARD HAS BEEN DETERMINED TO BE

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A CITIZEN OF THE UNITED STATES PURSUANT TO PUBLIC LAW 94-241 OF MARCH 24, 1976 AND PRESIDENTIAL PROCLAMATION 5564 OF NOVEMBER 3, 1986."

This is overprinted on a medium blue seal. The reverse also contains a line of reference numbers. The second number, a three-digit number, corresponds to the month of issue. If this number is less than 135 or more than 161, you should refer the card to the Department, CA/OCS/ACS, for verification with Department of Homeland Security (DHS). U.S. Passport Agencies should refer the card to the Agency Fraud Prevention Manager for verification.

7 FAM 1126.9 CNMI Applicants Claiming National Status

(CT:CON-105; 06-01-2005)

Section 302 of the CNMI Covenant provides that a person who acquired U.S. citizenship under Section 301 can, within six months of November 4, 1986 or within six months after reaching the age of 18, become a national and not a citizen of the U.S. by making an oath before a U.S. court or CNMI court. If the applicant checks on the supplemental statement that he or she has declared his or her intention to become a national and not a citizen, the court certification must be submitted. The applicant must also provide evidence of acquisition as outlined in this subchapter.

Passport Endorsement:

Place Endorsement 09 in the passport to show that the applicant is a non-citizen national. Endorsement 09 reads as follows:

THE BEARER IS A UNITED STATES NATIONAL AND NOT A UNITED STATES CITIZEN.

7 FAM 1127 PANAMA CANAL ZONE

7 FAM 1127.1 Panama Canal Zone (from February 26, 1904 to Present)

7 FAM 1127.1-1 Current Status

(CT:CON-429; 01-03-2013)

- a. The Panama Canal Treaty (TIAS 10030) transferred jurisdiction over the Canal Zone to Panama, effective October 1, 1979. As of that date, the Canal Zone ceased to exist as a separate and distinct geographical entity, making inoperative Section 303(a) INA.*

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- b. Children born in the former Canal Zone after October 1, 1979 acquire U.S. citizenship at birth only if they come within the scope of Sections 301, 303(b), or 309 INA (see 7 FAM 1127.1-2 a and 7 FAM 1131).*
- c. Individuals who acquired U.S. citizenship by birth in the Canal Zone, acquired citizenship unconditionally and maintained their citizenship after enactment of the Panama Canal Treaty.*
- d. All individuals who possessed non-citizen U.S. nationality by virtue of their birth in the Canal Zone, ceased to hold that status on October 1, 1979.*

7 FAM 1127.1-2 Status from December 24, 1952 until October 1, 1979

(CT:CON-429; 01-03-2013)

- a. The Immigration and Nationality Act of 1952 (INA) entered into effect on December 24, 1952. As originally enacted, Sections 303(a) and (b) INA provide as follows:*
 - "SEC 303. [8 U.S.C. 1403] (a) Any person born in the Canal Zone on or after February 26, 1904, and whether before or after the effective date of this Act, whose father or mother or both at the time of the birth of such person was or is a citizen of the United States, is declared to be a citizen of the United States. (b) Any person born in the Republic of Panama on or after February 26, 1904, and whether before or after the effective date of this Act, whose father or mother or both at the time of the birth of such person was or is a citizen of the United States employed by the Government of the United States or by the Panama Railroad Company, or its successor in title, is declared to be a citizen of the United States."*
- b. Section 303(a) became inoperative on October 1, 1979, when jurisdiction over the Zone was transferred to Panama.*
- c. From December 24, 1952, until October 1, 1979, a child born in the Canal Zone to a U.S. citizen acquired U.S. citizenship unconditionally. The parent was not required to have resided previously in the United States.*

7 FAM 1127.1-3 Status before December 24, 1952

(CT:CON-429; 01-03-2013)

- a. Status After Extension of U.S. Sovereignty to the Canal Zone*
 - (1) The area formerly known as the Canal Zone was leased to the United States by a treaty with the Republic of Panama, effective February 26, 1904.*
 - (2) The treaty did not address the nationality status of the native inhabitants. Pursuant to the principles of international law, they became noncitizen U.S. nationals unless they elected to retain their previous nationality.*

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(3) For most nationality purposes, the Canal Zone was considered to be foreign territory.

b. Status Acquired by Birth In The Canal Zone After Extension of U.S.

- From February 26, 1904, until August 4, 1937, acquisition of U.S. citizenship by persons born in the Canal Zone was governed by Section 1993, Rev Stat. (see 7 FAM 1135). Thus from February 26, 1904 to May 23, 1934, citizenship was transmitted only to children whose fathers were, at the time of the child's birth, U.S. citizens who had previously resided in the United States. The original Section 1993, R.S., was amended by Act of May 24, 1934, and made possible transmission of citizenship by either U.S. citizen parent who had previously resided in the United States.*

c. Laws Granting U.S. Citizenship To Certain Persons Born in the Canal Zone

- (1) The Act of August 4, 1937 (50 Stat. 558) ("the Act") was the first statute to provide for citizenship to certain individuals born in the Canal Zone. Section 1 of the Act provided for acquisition of U.S. citizenship by persons born in the Canal Zone on or after February 26, 1904, to a U.S. citizen parent. The wording of Section 1 was the same as that of Section 303(a) INA, quoted in 7 FAM 1127.1-2 a . The U.S. citizen parent did not need prior U.S. residence to transmit citizenship, and no retention requirement applied to the children. The Department holds that children born in the Canal Zone between May 24, 1934 and August 4, 1937 were not subject to the retention requirements of Section 1993 R.S., as amended.*
- (2) Under the Act of August 4, 1937, persons born in the Canal Zone to a U.S. citizen before passage of the Act acquired U.S. citizenship on August 4, 1937, if they had not already acquired U.S. citizenship. Those born there after August 4, 1937, to a U.S. citizen acquired U.S. citizenship at birth.*

d. Provisions from January 13, 1941 to December 24, 1952: Section 203(a) NA restated the provisions of Section 1 of the Act of August 4, 1937. Its text was the same as that of Section 303(a) INA. As with the Act of 1937, no prior residence or physical presence of the parent in the United States was required to transmit U.S. citizenship, and no later residence or physical presence of the child was required to retain U.S. citizenship.

e. Status of Persons Born in the Canal Zone to Aliens: Persons born in the Canal Zone of alien parents did not acquire U.S. nationality at birth.

7 FAM Exhibit 1126.4b

Supplemental Statement For Applicants Claiming Citizenship Under Public Law 94-241

(CT:CON-105; 06-01-2005)

This statement must be completed by every applicant for a United States passport who claims to have acquired United States citizenship under the provisions of Section 301 of the Covenant to Establish the Commonwealth of the Northern Mariana Islands in Political Union with the United States. (Public Law 94-241, approved March 24, 1976, and effective on November 4, 1986). When completed, this statement becomes a part of the application for a passport with which it is submitted.

1. I, _____

(Name)

2. was born on _____ at _____.

Date mm/dd/yyyy

(city, state/province, country)

3. I did []

I did not []

owe allegiance to or was a citizen or subject of any foreign state as of the effective date of Section 301 of the Covenant.

4. I have []

I have not []

since acquiring United States citizenship under Section 301 declared under the provisions of Section 302 of the Covenant my intention to become a national but not a citizen of the United States.

(If you have made such a declaration, please provide a copy.)

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5. From the date of my birth I have resided in the following places.

(Please list starting from your date of birth.)

| PLACE (city, state/province, country) | DATES From mm/dd/yyyy to mm/dd/yyyy (Month/Day/Year) | PURPOSE OF RESIDENCE |
|---|---|-------------------------|
| | | |
| | | |
| | | |
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| | | |
| | | |
| | | |
| | | |
| | | |

*Indicate purpose of periods of residence outside U.S. or NMI: vacation, residence, business, studies, U.S. military service, U.S. military dependent, etc. If working abroad, give name of employer.

Signature of Applicant

(Sign in presence of U.S. Consular Officer Or Passport Specialist/acceptance agent)

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Subscribed and sworn (affirmed) to before me this _____ day of _____,
20_____.

Typed Name of Consular Officer or Passport Specialist/Acceptance Agent

Signature of Consular Officer or Passport Specialist/Acceptance Agent

Title of Consular Officer or Passport Specialist/Acceptance Agent

Date

Seal/Stamp

7 FAM *Exhibit* 1126.5

Acquisition Of U.S. Citizenship Under Section 301(a), 501(a) and 303 of the CNMI Covenant

(CT:CON-429; 01-03-2013)

NOTE: These tables are intended for use only as a general reference guide, and should NOT be used to make determinations nor be cited in any case.

| Date of Birth | Place of Birth | Status of Parent(s) | Domicile Required | Section of Covenant | Comments |
|---|----------------|---------------------|-------------------|---------------------|--|
| On or after 12:01 a.m., 11/4/1986 (Saipan time) | NMI | N/A | N/A | 303 | Parent's status immaterial. Supplemental statement not required. |
| After 11 a.m. 01/09/1978 and before 12:01 a.m. 11/04/1986 (Saipan time) | NMI | N/A | N/A | 501(a) | Parent(s)' status immaterial. Supplemental Statement not required. |

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| | | | | | |
|---|-----|---|---|--|---|
| On or after 11/5/1968 and before 11 a.m. 01/09/1978 (under 18 on the effective date of Section 301 of the Covenant) | NMI | one or both natural parent(s) U.S. citizens | N/A | first see INA; 301(c) | Adjudicate under applicable provisions of the INA. Exception: If both parents born in Guam before 1950, should generally adjudicate under Section 301(c) of the Covenant. |
| | | (1) both natural parents TTPI citizens; ---OR--- (2) one natural parent born in TTPI [NMI, Palau (Belau), Caroline Islands or Marshall Islands] | Must have been domiciled in the NMI, the U.S. or its possessions on 11/3/1986 . | (1) Section 301(a) (2) Section 301(a) and Department interpretation of Dela Cruz decision | Blood relationship required. If born out of wedlock to a father born in TTPI, paternity must be established; however, legitimation is not required under the Covenant. |

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| | | | | | |
|--|----------|---|------|---|---|
| | anywhere | one natural parent acquired under Section 301(a) of the Covenant | none | 301(a) and Department interpretation s of Dela Cruz decision and "and their children" | |
| | | one adoptive parent acquired under Section 301(a) of the Covenant | none | 301(a) and Department interpretation of "and their children" | Adoption must have been finalized before 11/4/1986. |
| Before 11/5/1968 (over 18 on the effective date of the Covenant) | NMI | one or both natural parent(s) U.S. citizens | N/A | first see INA or NA; 301(c) | Adjudicate under applicable provisions of the INA or NA. Exception: If both parents born in Guam before 1950, should generally adjudicate under Section 301(c) of the Covenant. |

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| | | | | | |
|--|--|---|---|---|--|
| | | one natural parent born in the TTPI | Must have been domiciled in the NMI, the U.S. or its possession s on 11/3/1986 . | (1) Section 301(a) (2) Section 301(a) and Shoda decision | Before 1950, birth records are generally unavailable. Evidence required is LNR, and baptismal certificate or other acceptable secondary evidence. If born out of wedlock to a father born in the TTPI, paternity must be established; however, legitimation is not required. |
|--|--|---|---|---|--|

7 FAM Exhibit 1126.6

Acquisition of U.S. Citizenship Under Section 301(b) of the CNMI Covenant

(CT:CON-105; 06-01-2005)

NOTE: These tables are intended for use only as a general reference guide, and should NOT be used to make determinations nor be cited in any case.

| Date of Birth | Place of Birth | Status of Parent(s) | Section of Covenant | Domicile Required | Comments |
|--|----------------|---|--|-------------------|---|
| On or after 11/5/1981 and before 11/4/1986 | anywhere | one natural parent acquired under Section 301(b) of the Covenant | 301(b) and Department interpretations of Dela Cruz decision and "and their children" | none | |
| | | one adoptive parent acquired under Section 301(b) of the Covenant | 301(b) and Department interpretation of "and their children" | none | Adoption must have been finalized before 11/4/1986. |

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| | | | | | |
|--|----------|---|--|---|--|
| On or after 11/5/1968 and before 11/5/1981 | TTPI | one parent born in the TTPI | 301(b) and Department interpretation of Dela Cruz decision | Must provide evidence of domicile in NMI from 11/4/1981 to 11/3/1986. | Registration to vote not needed since under age on 1/1/1975. |
| | anywhere | Both parents TTPI citizens | 301(b) | Must provide evidence of domicile in NMI from 11/4/1981 to 11/3/1986. | Registration to vote not needed since under age on 1/1/1975. |
| | | one natural parent acquired under Section 301(b) of the Covenant | 301(b) and Department interpretations of Dela Cruz decision and "and their children" | none | |
| | | one adoptive parent acquired under Section 301(b) of the Covenant | 301(b) and Department interpretation of "and their children" | none | Adoption must have been finalized before 11/4/1986. |

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| | | | | | |
|---|----------|--------------------------------------|--|---|---|
| On or after 1/1/1957 and before 11/5/1968 | TTPI | one parent born in the TTPI | 301(b) and Department of Justice memorandum dated 6/9/1988 | Must provide evidence of domicile in NMI from 11/4/19 81 to 11/3/19 86. | Registration to vote not needed since under age on 1/1/1975. |
| | anywhere | both parents TTPI citizens | 301(b) | Must provide evidence of domicile in NMI from 11/4/19 81 to 11/3/19 86. If born outside the TTPI, must have become permane nt resident of TTPI before reaching age 21. | Registration to vote not needed since under age on 1/1/1975. |

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| | | | | | |
|--------------------|----------|--------------------------------------|--|---|---|
| Before 1/1/1957 | TTPI | one parent born in the TTPI | 301(b) and Department of Justice memorandum dated 6/9/1988 | Must provide evidence of domicile in NMI from 11/4/19 81 to 11/3/19 86. | Must provide evidence of registration to vote in NMI municipal or legislative election before 1/1/1975. |
| | anywhere | both parents TTPI citizens | 301(b) | Must provide evidence of domicile in NMI from 11/4/19 81 to 11/3/19 86. If born outside the TTPI, must have become permane nt resident of TTPI before reaching age of 21. | Must provide evidence of registration to vote in NMI municipal or legislative election before 1/1/1975. |

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7 FAM *Exhibit* 1126.7

Acquisition of U.S. Citizenship Under Section 301(c) of the CNMI Covenant

(CT:CON-429; 01-03-2013)

NOTE: These tables are intended for use only as a general reference guide, and should NOT be used to make determinations nor be cited in any case.

| Date of Birth | Status of Parent(s) | Section of Covenant | Comments |
|---|---|--|---|
| On or after 1/1/1974 and before 11/4/1986 | one natural parent acquired under Section 301(c) of the Covenant | 301(c) and Department interpretations of Dela Cruz decision and "and their children" | Domicile in NMI or U.S. not needed to acquire U.S. citizenship. |
| | one adoptive parent acquired under Section 301(c) of the Covenant | 301(c) and Department interpretation of "and their children" | Adoption must have been finalized before 11/4/1986. Domicile in NMI or U.S. not needed to acquire U.S. citizenship. |
| On or after 11/5/1968 and before 1/1/1974 | one natural parent acquired under Section 301(c) of the Covenant | 301(c) and Department interpretations of Dela Cruz decision and "and their children" | Domicile in NMI or U.S. not needed to acquire U.S. citizenship. |
| | one adoptive parent acquired under Section 301(c) of the Covenant | 301(c) and Department interpretation of "and their children" | Adoption must have been finalized before 11/4/1986. Domicile in NMI or U.S. not needed to acquire U.S. citizenship. |

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| | | | |
|------------------|-----------------------------|---|--|
| | parents' status immaterial* | 301(c) and Department interpretation of Barasi decision | Persons in the Pangelinan class (see list in Attachment B) must provide documents to establish domicile in the NMI for the period 3/6/1977 through 11/3/1986. All other applicants must provide documents to establish domicile in the NMI for the period 12/31/1973 through 11/3/1986. |
| Before 11/5/1968 | Parents' status immaterial* | 301(c) and Department interpretation of Barasi decision | Persons in the Pangelinan class (see list on CA/OCS Intranet) must provide documents to establish domicile in the NMI for the period 3/6/1977 through 11/3/1986. All other applicants must provide documents to establish domicile in the NMI for the period 12/31/1973 through 11/3/1986. |

* There have been several unusual cases of persons who were born in the Trust Territory, but for one reason or another do not qualify for U.S. citizenship under Section 301(a) or Section 301(b). These cases should be adjudicated under Section 301(c).

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7 FAM Exhibit 1126.5-5 List of Pangelinan Plaintiffs

(CT:CON-105; 06-01-2005)

Nestor Rafanan ABLOG
Jose ACIBES, Jr.
Samuel A. AGANA
Jimmy Gadot AGLIPAY
Leonardo Aranda AJOSTE
Severo Cuano AVILA
Nicanor Alba BACAGO
Romulo B. BALLESTEROS
Jose Lingal BOCAGO
Nicanor A. BOCAGO
Anastacio Pascua BUCCAT
Thomas San Pedro BUNDOC
Angelita Mendoza BUNIAG
Marcial Canaria CARREA
Edgardo T. CASTILLO
Marcial C. CORREA
Julieta David CUNANAN
Cyriah C. DAEL
Enrique Cuenca DEJESUS
Antonio D. DELA ROSA
Carmen Padua DELEON
Leon Jose Santos DEMESA
Delfin Dancel EBETUER
Francisco So. ERMITANIO
Augusto Cadiz EVANGELISTA
Eleuterio C. EVANGELISTA, Jr.
Benedicto Palaganas FERNANDEZ
Gregorio GABIONZA

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Aida Laquin Danam GARONG

Alfredo Abecia GONZALES

Conrado Carlos GUIAO

Brigido S. HERNANDEZ

Oscar Canlas IBARRA

Norberto Santos JAVIER, Jr.

Juan B. Santiago LAURON

Piadosa Falalimpa LAURON

Gaudencio Cruz MACALINAO

Alfredo Nacu MALIT

Guadalupe Tababa MANACO

Leonardo Yumul MANACOP

Jorge Mata MANALILI

Eduardo Ustaris MANUEL

Regina Maningas MANUEL

Catalina A. MATIAS

Flora Cordera MENDOZA

Pedro De Castro MENDOZA

Cirilo Oliquiano NAVALTA

Angel E. OCAMPO, Jr.

Aureliano O. OCASION

Eulogia M. OCASION

Miguel Mendezabel OLIVER

Camillo Arellano ORALLO

Romeo Cabingas PAGAPULAR

Alfonso Basilio PAMINTUAN

Eduard P. PANGELINAN

Andronico Villalino PELEN

Alejandro Purzzan PERREZ

Humberto Lopez QUIBLAT

Betty Leonida F. QUIDILIG

Alberto Palabay RAMOS

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Takashi TAGUCHI
Antonio Francisco TEBORA
Dominador Daya TORRES
Rodico G. VIDAL
Bernardo Ruffy VILLACRUSIS
Victorino Urcia VILLACRUSIS
Levy Nicolas Centeno VILLEGAS
Reynoldo Obsiome YANA
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